



# Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108  
phone: 617-371-9500, fax: 617-723-5851



SUFFOLK, ss

COMMISSION ADJUDICATORY  
DOCKET NO. 06-0015

IN THE MATTER  
OF  
THOMAS CREAN

## DISPOSITION AGREEMENT

The State Ethics Commission and Thomas Crean enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j). On September 29, 2004, the Commission initiated a preliminary inquiry, pursuant to G.L. c. 268B, § 4(a), into possible violations of the conflict-of-interest law, G.L. c. 268A, by Crean. The Commission has concluded its inquiry and, on April 13, 2006, found reasonable cause to believe that Crean violated G.L. c. 268A. On August 24, 2006, the Enforcement Division filed an Order to Show Cause concerning this matter.

The Commission and Crean now agree to the following findings of fact and conclusions of law.

### Findings of Fact

1. In January 2002, Crean became the City of Beverly mayor.
2. When Crean took office, the city purchased for \$1,785 a new Compaq Presario laptop computer for him to use.
3. Ordinarily, the mayor is the city's chief procurement officer, but Crean had delegated his chief procurement officer duties to Beverly Purchasing Director Christopher Bradley.
4. In or about fall 2003, Crean decided that he wanted to buy his laptop from the city when he left office at the end of the year.
5. Both Bradley and the city solicitor told Crean that he would have to buy the laptop from the city pursuant to G.L. c. 30B procedures.
6. General Laws c. 30B, the Uniform Procurement Act, establishes uniform procedures for governmental bodies in procuring supplies, services or real property, and in disposing of supplies or real property. Section 15 of the Act specifies how a governmental body shall dispose of an item that is no longer useful to the governmental body but with resale or salvage value. Section 15(f) specifies that for such an item with an estimated net value of less than \$5,000, the procurement officer shall dispose of it using written procedures approved by the governmental body.

7. Beverly City Ordinance Section 2-7 controls the city's disposal of items that are no longer of use to the city. This section states in pertinent part that, pursuant to G.L. c. 30B, § 15(f), the chief procurement officer (i.e., the mayor) or his designee (i.e., the purchasing director):

may dispose of surplus property (other than real property) which has been determined by the Department Head, in whose care and custody such surplus property is, to have a value of less than [\$500] by the following procedure:

- (1) Department Head desiring to dispose of said surplus property shall write a letter to the Chief Procurement Officer, or his designee, stating forth in detail a complete description of the surplus property and a statement as to how a value of less than \$500 was determined.

8. Crean then informed Bradley, his subordinate, that he wanted to have his laptop declared as surplus so that he could bid on it and buy it from the city. Crean did not provide Bradley with the letter required by City Ordinance Section 2-7, which would have described the surplus property and stated how a value of less than \$500 was determined.

9. Bradley proceeded to treat the laptop as surplus and put it up for auction.

10. The city received only one bid for the laptop: a bid of \$100 from Crean. On December 29, 2003, Bradley informed Crean that he was the highest bidder.

11. Shortly thereafter, Crean paid for his laptop and took possession.

12. Crean left office as mayor in early January 2004.

### **Conclusions of Law**

13. As the Beverly mayor, Crean was a municipal employee as that term is defined in G.L. c. 268A, § 1(g), and therefore was subject to the conflict-of-interest law, G. L. c. 268A.

14. Section 19 of G. L. c. 268A prohibits a municipal employee from participating as such in any particular matter in which he, to his knowledge, has a financial interest.

15. The decisions regarding the surplus declaration and sale of the laptop were particular matters.

16. Crean participated as mayor in these particular matters by directing his subordinate to declare the computer as surplus and by guiding the procedure.

17. When he so participated, Crean knew he had a financial interest in these particular matters because at all times relevant, he intended to bid on his computer and buy it from the city at a low price.

18. Accordingly, Crean violated § 19 by participating as mayor in a particular matter in which, to his knowledge, he had a financial interest.

19. Section 20 prohibits a municipal employee from having a financial interest, directly or indirectly, in a contract made by his municipality, in which the municipality is an interested party, and of which financial interest he knows or has reason to know.

20. Crean bid on the computer and, as the only bidder, had his bid accepted, thereby creating a contract with the city to buy the computer.

21. This contract took effect on December 29, 2003, upon Bradley's informing Crean that he was the highest bidder for the laptop. At the time, Crean was still the mayor.

22. The city made the contract and was an interested party in it.

23. Crean had a direct financial interest in this contract because it required him to pay the city for the computer, and it required the city to sell the computer to Crean for the amount of his winning bid.

24. Crean knew of this financial interest because he knew that if his bid was the winning bid, he would have to pay that amount to the city.

25. Accordingly, Crean violated § 20 by having a financial interest in a contract made by his municipality, in which the municipality was an interested party, and of which financial interest he knew or had reason to know.

### **Resolution**

In view of the foregoing violations of G.L. c. 268A by Crean, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Crean:

- (1) that Crean pay to the Commission the sum of \$1,000 as a civil penalty for violating G.L. c. 268A;
- (2) that Crean pay the city of Beverly \$500 reflecting the difference between what he paid for the computer and its fair market value when he purchased it;<sup>1</sup> and
- (3) that Crean waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE:** April 4, 2007

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<sup>1</sup> The Commission and Mr. Crean have stipulated for purposes of settlement that the approximate value of the laptop computer at the time of purchase was \$600.